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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/787,507	02/26/2004	Jeffrey R. Bury	MBC-0511	4993
23575 7590 10/07/2008 CURATOLO SIDOTI CO., LPA 24500 CENTER RIDGE ROAD, SUITE 280			EXAMINER	
			EGWIM, KELECHI CHIDI	
CLEVELAND, OH 44145			ART UNIT	PAPER NUMBER
			1796	
			MAIL DATE	DELIVERY MODE
			10/07/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)					
	10/787,507	BURY ET AL.					
Office Action Summary	Examiner	Art Unit					
	Dr. Kelechi C. Egwim	1796					
The MAILING DATE of this communication app Period for Reply	ears on the cover sheet with the c	orrespondence address					
A SHORTENED STATUTORY PERIOD FOR REPLY WHICHEVER IS LONGER, FROM THE MAILING DA - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period w - Failure to reply within the set or extended period for reply will, by statute, Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATION 36(a). In no event, however, may a reply be time will apply and will expire SIX (6) MONTHS from cause the application to become ABANDONE	I. lely filed the mailing date of this communication. (35 U.S.C. § 133).					
Status							
1) Responsive to communication(s) filed on 22 Se	eptember 2008.						
	· · · · · · · · · · · · · · · · · · ·						
<i>,</i> —	<i>'</i> —						
	closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.						
Disposition of Claims							
4)⊠ Claim(s) <u>1,3,5-9,12-17,19-23 and 26-32</u> is/are	pending in the application.						
4a) Of the above claim(s) is/are withdraw	4a) Of the above claim(s) is/are withdrawn from consideration.						
5) Claim(s) is/are allowed.							
·	6)⊠ Claim(s) <u>1,3,5-9,12-17,19-23 and 26-32</u> is/are rejected.						
7) Claim(s) is/are objected to.							
8) Claim(s) are subject to restriction and/or	election requirement.						
Application Papers							
9)☐ The specification is objected to by the Examine	•						
10) ☐ The drawing(s) filed on is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.							
	Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).						
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).							
11)☐ The oath or declaration is objected to by the Ex		• •					
Priority under 35 U.S.C. § 119							
12) Acknowledgment is made of a claim for foreign	priority under 35 LLS C & 110(a)	-(d) or (f)					
a) ☐ All b) ☐ Some * c) ☐ None of:	priority under 35 G.G.G. § 115(a)	-(d) 01 (1).					
1. Certified copies of the priority documents	s have been received						
2. Certified copies of the priority documents		on No					
	3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).						
* See the attached detailed Office action for a list of the certified copies not received.							
Attach manut/a)							
Attachment(s) 1) Notice of References Cited (PTO-892)	4) Interview Summary	(PTO-413)					
Notice of References Cited (P10-892) Notice of Draftsperson's Patent Drawing Review (PT0-948)	4) Interview Summary Paper No(s)/Mail Da						
3) Information Disclosure Statement(s) (PTO/SB/08)	5) 🔲 Notice of Informal P						
Paper No(s)/Mail Date	6) [] Other:						

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Art Unit: 1796

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 09/22/2008 has been entered.

Claim Rejections - 35 USC § 102

- 2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
- 3. Claims 1, 3, 5-9, 12-17, 19-23 and 26-32 are rejected under 35 U.S.C. 102(e) as being anticipated by Anderson et al., for reason cited in previous actions.

Response to Arguments

4. Applicant's arguments and declaration filed 09/22/2008 have been fully considered but they are not persuasive for reason already presenting in previous actions.

5. Regarding applicant's arguments, it is maintained that recommended dosage ranges, however one chooses to interpret them, are sufficient to represent relative recommended amount of each of the component, and thus, ratios/percentages of the components in the composition. The Declaration of Daczko does not change the statements of fact in the reference, regardless of applicant choice to interpret those facts on e way or the other.

The examiner finds that sufficient data is provided in the reference Table to provide a ratio of the components anticipatory enough to reject the present claims.

6. All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. Kelechi C. Egwim whose telephone number is (571) 272-1099. The examiner can normally be reached on M-T (7:30-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on (571) 272-1114. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dr. Kelechi C. Egwim/ Primary Examiner, Art Unit 1796